

DEC 19 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LOREN CHAPULIN; WILLIAM MARK
CLARKE; SAMUEL COVELLI;
ROBERT HUMBERTO GUADALUPE;
CRAIG PORHOLA; KEVIN RANFT;
HENRY REES; JOHN RICHARDSON,

Plaintiffs - Appellants,

v.

PATRICK J. CONMAY; JACKIE
CRAWFORD; CHARLES MCBURNEY;
STATE OF NEVADA; JAMES M.
SCHOMIG, Warden; GLEN WHORTON,

Defendants - Appellees.

No. 06-15555

D.C. No. CV-05-00204-PMP

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Argued and Submitted December 5, 2007
San Francisco, California

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Before: KOZINSKI, Chief Judge, COWEN, ** and HAWKINS, Circuit Judges.

Because the district court erred in granting summary judgment in favor of all defendants when defendants sought summary judgment only on claims involving three defendants, see Kelly v. Arriba Soft Corp., 336 F.3d 811, 822 (9th Cir. 2003), and in granting the motion merely because it was unopposed without considering whether genuine issues of material fact existed, see Henry v. Gill, 983 F.2d 943, 950 (9th Cir. 1993), we reverse and remand. Our determination moots the appeal from the denial of reconsideration.

REVERSED and REMANDED.

** The Honorable Robert E. Cowen, Senior United States Circuit Judge for the Third Circuit, sitting by designation.